

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

NEGASH BEIRUTI,

Petitioner,

v.

Case No. 1:08-CV-443

VINCENT CLAWSON,

HON. GORDON J. QUIST

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION

Petitioner Beiruti filed a Petition for a Writ of Habeas Corpus (docket no. 1) pursuant to 28 U.S.C. § 2241. The Court has reviewed the Report and Recommendation (docket no. 9) filed by the United States Magistrate Judge in this action on December 29, 2008. The Report and Recommendation recommended that Clawson's Motion to Dismiss (docket no. 5) for lack of jurisdiction be granted and Beiruti's petition dismissed. Petitioner did not oppose the motion. A copy of the Report and Recommendation was mailed to Petitioner but returned undeliverable. No objections have been filed pursuant to 28 U.S.C. § 636(b)(1)(C). Accordingly, the Court will adopt the Report and Recommendation as the Opinion of this Court.

Under 28 U.S.C. § 2253(c)(2), the Court must also determine whether a certificate of appealability should be granted. A certificate should issue if Petitioner has demonstrated a "substantial showing of a denial of a constitutional right." 28 U.S.C. § 2253(c)(2). The Sixth Circuit has disapproved issuance of blanket denials of a certificate of appealability. *Murphy v. Ohio*, 263 F.3d 466, 467 (6th Cir. 2001). Rather, the district court must "engage in a reasoned assessment of each claim" to determine whether a certificate is warranted. *Id.* at 467. Each issue must be

considered under the standards set forth by the Supreme Court in *Slack v. McDaniel*, 529 U.S. 473, 120 S. Ct. 1595 (2000). *Murphy*, 263 F.3d at 467. Consequently, this Court has examined Petitioner's claims under the *Slack* standard.

Under *Slack*, 529 U.S. at 484, 120 S. Ct. at 1604, to warrant a grant of the certificate, "[t]he petitioner must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." For the reasons set forth in the Report and Recommendation, the Court finds that reasonable jurists could not find that this Court's dismissal of Petitioner's claim was debatable or wrong. Thus, the Court will deny Petitioner a certificate of appealability.

THEREFORE, IT IS ORDERED that the Report and Recommendation of the Magistrate Judge, filed December 29, 2008, is approved and adopted as the Opinion of the Court.

IT IS FURTHER ORDERED that Respondent's Motion to Dismiss (docket no. 5) is **GRANTED** and Petitioner's Petition for a Writ of Habeas Corpus (docket no. 1) is **DISMISSED**.

IT IS FURTHER ORDERED that a **certificate of appealability** is **DENIED** by this Court.

This case is **concluded**.

Dated: February 6, 2009

/s/ Gordon J. Quist
GORDON J. QUIST
UNITED STATES DISTRICT JUDGE